

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
2005 MAY 27 PM 3:41

LORETTA G. WHYTE
CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: EDUCATIONAL TESTING
SERVICE PRAXIS
PRINCIPLES OF LEARNING
AND TEACHING: GRADES
7-12 LITIGATION

MDL NO. 1643

SECTION: R(5)

JUDGE VANCE
MAGISTRATE JUDGE CHASEZ

THIS DOCUMENT RELATES TO: ALL CASES

JOINT REPORT NO. 2 OF PLAINTIFFS' LEAD COUNSEL AND
DEFENDANT, EDUCATIONAL TESTING SERVICE

Plaintiffs' Lead Counsel and Defendant Educational Testing Service (ETS) jointly submit this Joint Report No. 2.

1. ETS's Partial Motion To Dismiss

The Parties have completed briefing on ETS's Partial Motion to Dismiss which seeks to dismiss Counts II (negligence), III (negligent misrepresentation), and IV (Sherman Act violation) of the Administrative Master Complaint ("AMC"), and to strike prayers for mental anguish damages and punitive damages. Oral argument is scheduled for the Status Conference on June 2, 2005.

For _____
By Process _____
By Clerk _____
By InDep _____
Doc. No _____

2. **ETS's Motion for a Briefing Schedule on a Motion To Dismiss the Segregated Kochensky Claims and a Modification of Pretrial Order Number 2**

On May 19, 2005, ETS filed a Motion requesting that the Court set a briefing schedule at the June 2, 2005 Status Conference on a Motion To Dismiss the now-segregated *Kochensky* claims and for a modification of Pretrial Order Number 2 to allow for a decision on that motion to be rendered before class certification discovery begins. Plaintiffs' Lead Counsel and Counsel for *Kochensky* each filed responses on May 24, 2005. All parties are prepared to address this issue at the June 2, 2005 Status Conference.

3. **Class Certification Discovery Plan (PTO2 - ¶5)**

As directed by PTO #2, paragraph 5, the Parties met to discuss the issue of a Class Certification Discovery Plan and submitted a proposed Joint Discovery Plan to the Court at the March 10, 2005 Status Conference. *See* Exhibit "A." The Parties were unable to reach agreement as to (1) the number of depositions each side shall be permitted to take and (2) whether ETS may depose some putative class members who are not named Plaintiffs. The Parties argued the issues at the last Status Conference, and pursuant to PTO#3, have completed briefing on these issues. All parties are prepared to address these issues at the June 2, 2005 Status Conference.

4. **Interrogatories and Document Requests.**

As directed by PTO #2, paragraph 4, the Parties completed Voluntary Disclosures on March 10, 2005 and have responded to interrogatories and document requests. The Parties are cooperating to resolve any discovery disputes. The Parties will be prepared to provide the Court with an update on the status of discovery and issues concerning same at the June 2, 2005 Status Conference.

5. Report of State Court Litigation Liaison

Christopher Seeger, Plaintiffs' State Court Litigation Liaison Counsel, and counsel for ETS will be prepared to present the status of related state court litigation at the June 2, 2005 Status Conference.

6. Potential "Tag along" Cases

Since the last Status Conference, two additional cases have been noticed to the MDL Panel as potential "tag along" actions, *Zachary Wallick vs. Educational Testing Service, United States District Court, Northern District of Ohio, Eastern Division, Civil Action No. 5:05-CV-0822* and *Michelle Callahan Bradley vs. Educational Testing Service, United States District Court, Middle District of Louisiana, Civil Action No. CV-05-238-A-M1*.

7. Website

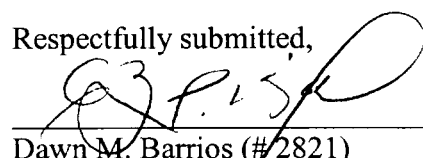
Plaintiffs' Lead Counsel received a call from an unrepresented putative class member who complained that the information posted on the website is in legalese and was "incomprehensible" to the layperson. Plaintiffs would like to discuss with the Court ways to rectify this situation at the June 2, 2005 Status Conference.

8. Next Status Conference Date

The Court will set the next Status Conference date.

Dated: May 27, 2005

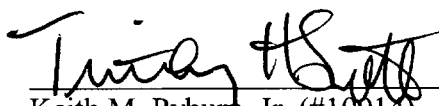
Respectfully submitted,



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